

United States District Court  
District of Massachusetts  
Western Division

TRIF Company  
Plaintiff

V.

Chris Morris d/b/a International Housewares,

Frank Stoegarar d/b/a Worldwide Marketing,

Zia Biao Xu and Zhi Xiong Xu d/b/a Earth Link

LLC

C.A. No. -04-

30194-MAP

**AFFIDAVIT OF David Harmon**

I, David Harmon do hereby depose and state the following upon oath.

1. For the past fifteen years I have been fully engaged in specialty retail selling at temporary locations.
2. The specialty retail industry involves the development and marketing of specialty items at venues such as state fairs like the Big Exposition in Springfield, Massachusetts. See Exhibit 1. (The summer 2004 Specialty Retail Magazine).
3. Approximately one year ago I incorporated TRIF Company, a Texas corporation with offices in Rhode Island, to promote a line of therapeutic pillows.
4. TRIF Company conducted extensive research into these pillows including analysis by medical professionals. See Exhibit 2 (Medical Endorsement).
5. After seven or eight trips to China, TRIF Company developed manufacturing specifications to make the pillows in that country. The specifications include water resistant covering material of a nylon/spandex blend that is machine washable and dryable, premium medical grade micro-beads from Holland, tape reinforced seams, double locked stitched seams and double sewn closures, and hypo-allergenic and FDA approved materials.

- 1 6. TRIF Company invested hundreds of thousands of dollars in the development, advertising,  
2 manufacturing, importing and distribution of this product line over the past year. (See Exhibit  
3 3.)(Examples of Advertising)
- 4 7. TRIF Company had special packaging designed for the pillows by Doug Wolley of Cranston,  
5 Rhode Island, who created a largely transparent bag for the pillows with distinctive lettering and  
6 logos. One version of the bag includes the slogans "SNOOZTIME on the Beach" and "The Next  
7 Best Thing!"
- 8 8. Another version of the bag designed by Wolley for TRIF Corporation says "SNOOZTIME" and  
9 "A Relaxing Experience".
- 10 9. The pillows are marketed under the trademark name SNOOZTIME.
- 11 10. The SNOOZTIME pillows are sold in ten to twelve colors including some florescent colors and  
12 wholesale at a price of \$6.50 to \$8.00 each.
- 13 11. The pillows are sold in state fairs across the country including the current Big Exposition in  
14 Springfield, Massachusetts, which runs from September 17 to October 3, 2004.
- 15 12. The SNOOZTIME therapeutic pillows were introduced to the market on July 4, 2004 at the  
16 Delmar California Fair at a cost of \$12,500 plus related expenses.
- 17 13. TRIF Company sells the product to individuals on a retail bases as well as bulk purchase  
18 customers who typically operate specialty kiosks in malls.
- 19 14. TRIF Company also markets the pillows to department stores and chain stores.
- 20 15. Earlier this year, Frank Stoegarar of Worldwide Marketing, tried to buy TRIF Company's  
21 inventory of therapeutic pillows for his specialty retail firm, but I refused to sell.
- 22 16. At or near the time of the debut of SNOOZTIMES therapeutic pillow line, Frank Stoegarar and/or  
23 Zia Biao Xu acquired one or more SNOOZTIME pillows.
- 24 17. At the Big Exposition in Springfield, Massachusetts on September 21 of this year, I learned that  
25 Frank Stoegarar in conjunction with Zia Biao Xu and Chris Morris of International Housewares  
26 were selling copies of the SNOOZTIME therapeutic pillow at a wholesale price of \$3.40 to \$5.50.  
27 The colors were the same as those of the SNOOZTIME pillows which retail at \$20.00.
- 28 18. I acquired one of Morris' pillows and immediately detected a strong odor of petroleum, a lighter  
29 covering material that easily runs and pulls, industrial grade beads from China with a distinctive  
30 odor, fewer large beads with irregular surfaces than the SNOOZTIME product, no seam

reinforcement, inferior seam stitching, a counterfeit label and most importantly, an offensively and virtually identical package.

19. The Morris package reads "ZZZ's Time on the Couch" and "The Next Best Stuff" in a largely transparent bag with identical markings and lettering as the SNOOZTIME bag.

20. The drawstring, artwork, coloring, and logo style are identical.

21. The introduction by the Defendants of this product line at the Big Exposition, where TRIF Company has invested a significant sum to market its therapeutic SNOOZTIME pillows, was calculated to confuse SNOOZTIME's customers.

22. During the first two days of the Big Exposition, 75% of TRIF Company's sales were SNOOZTIME's therapeutic pillows. That figure decreased to 40% of sales as of September 22, after Morris began selling the copycat pillows in SNOOZTIMES packaging.

23. I understand that Morris and his associates have criticized the SNOOZTIME pillow line, alleging erroneously that the products are not washable.

24. I understand that Morris and his associates are grossing more than \$1,200 a day selling their infringing pillow products and that the Morris group has purchased 5,000 pillows for sale in this country.

25. I have lost retail and bulk sales to the Morris group based on my reduced sales as well based on information I have gathered from the field.

26. TRIF Company has projected gross sales at the Big Exposition was \$70,000-\$80,000 prior to the introduction of the knock-off products by the Morris group.

27. I have also purchased and imported more than 42 freight containers from China, each containing approximately 7,000 pillows, TRIF Company has also invested in an additional 45 containers either in production or in transit.

28. TRIF Company's rental costs for the Big Exposition is approximately \$4,000 not including transportation, advertising, labor and marketing materials such as posters.

29. In addition to stealing customers from TRIF Company, the Morris group has harmed the reputation of SNOOZTIME and TRIF Company for quality, has diluted the SNOOZTIME trademark by confusing SNOOZTIME therapeutic pillows with inferior knock-off products and has caused TRIF Company incalculable losses.

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The foregoing statements are made under the penalties of perjury.



David Harmon, President



Witness

# Specialty Retail

THE GO-TO SOURCE FOR  
RETAIL ENTREPRENEURS

## The Cool Guys of HotHeadz

Bruce Singer and  
Jay Oxenhorn

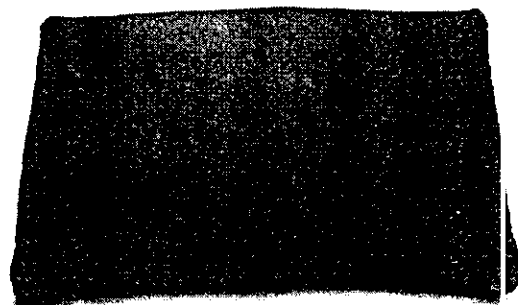
When it comes to retail, there's no one else out there like HotHeadz. The company's unique approach to retailing is what sets it apart from the competition. And it's what makes it a must-read for every retail entrepreneur.



## NEW **SNOOZTIME™ DREAMER PILLOW** ENDORSED BY LEADING CHIROPRACTOR

"The new **DREAMER PILLOW** has many distinct advantages over regular foam pillows." — Dr. James Baggio, D.C.

1. First of all, they are very comfortable!
2. If you are a side sleeper, the pillow will mold to your shoulder height allowing you to keep your neck in line with your spine vs. being bent or crooked.
3. If you are a back sleeper, the pillow nicely fills the gap between your neck and the bed and keeps the proper curvature in your neck (arched slightly forward, towards your throat).
4. Many of the cervical pillows on the market will lose their support and need to be replaced, often within a years time. Snooztime™ pillows should maintain their supportive qualities indefinitely, due to the flexible qualities of the filling.
5. The entire pillow can easily be machine washed, as opposed to just the pillow case.
6. People who are unable to enjoy the supportive qualities of a down pillow due to allergies can now enjoy the same supportive qualities of down in a Snooztime pillow without the discomfort of allergies.
7. They feel really cool and comfortable!!!



James Baggio D.C.

# **SNOOZTIME**

Just a Better Pillow

**For further information, visit [snooztime.com](http://snooztime.com) or call 1-800-336-0088**

# The World's Best Pillow is

*Squishy*

*Snuggly*

Visit  
heatwa





# Next Hottest

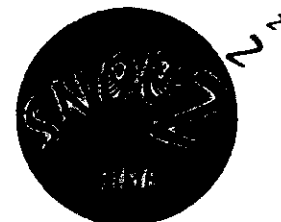
# New Product!

**GREAT FOR:**  
**Travel**  
**Lounging**  
**Sleeping**  
**Camping**  
**FUN!**



**Your customers will**  
*touch it, love it, buy it!*

- ◆ Universally loved by all
- ◆ Proven high volume sales
- ◆ Full line of sizes, shapes and colors
- ◆ High Quality
- ◆ Machine washable
- ◆ Complete turnkey concept—everything needed to start
- ◆ Low start up cost—includes enough product to triple your investment
- ◆ Retail price points \$14.95 to \$44.95

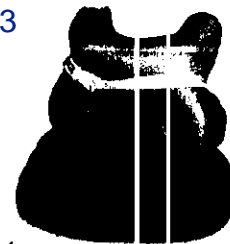


**For Information Call:**  
**1-800-336-0088**  
[www.texrif.com](http://www.texrif.com)  
[sales@texrif.com](mailto:sales@texrif.com)  
**TRIF CORPORATION**  
**231 VZCR 4104**  
**Canton, TX 75103**

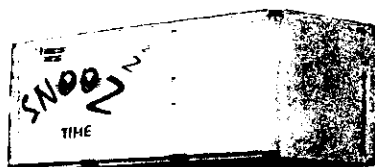




# ATTENTION: PUSHCARTS AND KIOSKS



The World's Best Pillow Is Your Next  
Hottest New Product!



**NOW...BUY BY THE  
CONTAINER LOAD!**



## PLAN #1 BUY A 20 FT. CONTAINER

PILLOW STYLE	QTY PER CONT.	PRICE EA.	YOUR COST	SELL PRICE	TTL SALES	PROFIT
ORIGINAL SNOOZ	1500	\$5.20	\$7800.00	\$19.95	\$29925.00	\$22125.00
U- SNOOZ NECK	350	5.50	1925.00	29.95	10482.50	8557.50
ANYWHERE SNOOZ	350	6.60	2310.00	34.95	12232.50	9922.50
SNOOZ DREAMER	150	9.10	1365.00	49.95	7492.50	6127.50
LUMBAR SNOOZ	150	7.60	1140.00	29.95	4492.50	3352.50
BODY SNOOZ	150	9.10	1365.00	44.95	6742.50	5377.50
<b>TOTALS:</b>	<b>2650</b>		<b>\$15,905.00</b>		<b>\$71,367.50</b>	<b>\$55,462.50</b>

TERMS: See all Terms below.

## PLAN #2 BUY A 40 FT. CONTAINER

PILLOW STYLE	QTY PER CONT.	PRICE EA.	YOUR COST	SELL PRICE	TTL SALES	PROFIT
ORIGINAL SNOOZ	3500	\$5.20	\$18,200.00	\$19.95	\$69825.00	\$51625.00
U- SNOOZ NECK	800	5.50	4400.00	29.95	23960.00	19560.00
ANYWHERE SNOOZ	800	6.60	5280.00	34.95	27960.00	22680.00
SNOOZ DREAMER	300	9.10	2730.00	49.95	14985.00	12255.00
LUMBAR SNOOZ	300	7.60	2280.00	29.95	8985.00	6705.00
BODY SNOOZ	300	9.10	2730.00	44.95	13485.00	10755.00
<b>TOTALS:</b>	<b>6000</b>		<b>\$35,620.00</b>		<b>\$159,200.00</b>	<b>\$123,580.00</b>

TERMS: See all Terms below.

## PLAN #3 ORDER W/ DEFERRED SHIPPING

SAME PLAN AS ABOVE EXCEPT YOU ARE PLACING YOUR ORDER NOW FOR GUARANTEED NOVEMBER DELIVERY, JUST IN TIME FOR HOLIDAY SELLING! THE ONLY DIFFERENCE IN COST TO YOU IS .75 CENTS PER UNIT INCREASE. THE SURCHARGE IS REQUIRED BECAUSE WE CARRY THE BALANCE UNTIL YOUR ORDER SHIPS. THIS PLAN WILL GIVE YOU THE SECURITY OF KNOWING YOU WILL HAVE AMPLE PRODUCT DURING THE PEAK HOLIDAY BUYING PERIOD, WITHOUT SCRAMBLING FOR PRODUCT AT THE LAST MINUTE. THE MOST VERSATILE PLAN! **THIS PLAN IS ONLY AVAILABLE UNTIL SEPTEMBER 15, 2004.**

AFTER THAT, WE CANNOT GUARANTEE HOLIDAY DELIVERY!!!

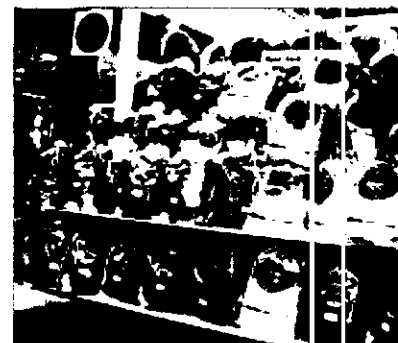
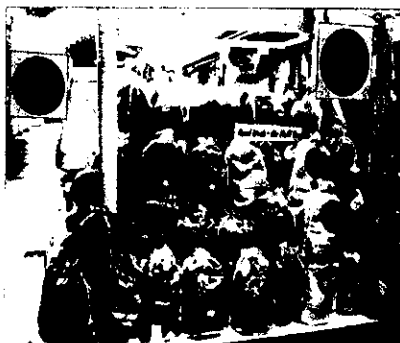
## PLAN #4 BUY DIRECT FROM OUR WAREHOUSE

PILLOW STYLE	QTY PER CASE	PRICE EA.	SELL PRICE
ORIGINAL SNOOZ		\$8.00	\$19.95
U- SNOOZ NECK		9.50	29.95
ANYWHERE SNOOZ		10.50	34.95
SNOOZ DREAMER		16.50	49.95
LUMBAR SNOOZ		9.50	29.95
BODY SNOOZ		15.50	44.95

Orders from this plan are shipped directly from our warehouses in Texas, Rhode Is. and, Los Angeles, Seattle, Toronto, or Vancouver. Please call for details.

## TERMS

1. All goods F.O.B. China
2. 50% deposit upon order placement
3. Product usually ships 2-3 weeks from order placement.
4. Balance to be paid when container leaves China.
5. We can provide a Broker for buyer if needed
6. Buyer is responsible for Customs, Insurance, & Freight Charges.
7. Container will be delivered to your specified location.
8. Loss of deposit if balance is not paid when required.
9. TRIF Corp. not responsible for delays for any reason.



LIVELY  
LIME

REGAL  
MAROON

VIOLET  
PURPLE

PULSAR  
PINK

BLAZING  
ORANGE

**For Information Call:**

**BEWARE OF IMITATORS!**

Snooz Time™ products are  
only distributed by reps  
from TRIF Co. Inc. in  
the U.S. and Canada!

David Harmon      Kevin McIntyre  
972-567-4133      or      401-952-4586

MIDNITE  
BLACK

FIRE  
RED

GOLDEN  
ROSE

ROYAL  
BLUE

METAL  
BRONZE

distributed exclusively by  
**TRIF CORPORATION**  
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sales@texrif.com

TRIF Co. Inc. 231 VZ 4104 Canton Texas 75103

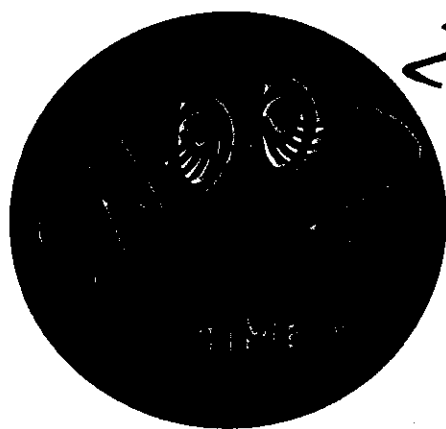
# Get **Therapeutic Neck Pain Relief**

with the

## **"U-SNOOZ" NECK REST PILLOW**

**"FOR A REAL PAIN IN THE NECK!"**

- Therapeutic
- Relieves Tension
- Helps Posture
- Eases Fibromyalgia



SPANDEX SIDE KEEPS YOU  
COOL AND COMFORTABLE  
IN THE HEAT OF SUMMER

**great for**

- cars,
- boats,
- trains,
- planes,
- beaches,
- stadiums!

**ANYWHERE!**



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**TRIF CORPORATION**  
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[www.snooztime.com](http://www.snooztime.com)  
[www.texrif.com](http://www.texrif.com)

**PRODUCT CARE**

Your Snooztime pillow will provide years of comfort with only minimal maintenance and cleaning. The pillow shell is a blend of super stretch Nylon and Spandex, and the filling is 100% polystyrene foam beads.

***Washing Instructions:***

The Snooztime pillow can be hand washed in warm water using a mild detergent and then air dried. Using an oxygen bleach or enzyme pre-wash can help remove stubborn stains.  
DO NOT USE CHLORINE BLEACH.

The Snooztime pillow can also be machine washed on a Gentle cycle using warm water, mild detergent and oxygen bleach, and then dried in the dryer using the Fluff setting.  
DO NOT USE CHLORINE BLEACH.



***Please Print:***

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

Where Purchased: \_\_\_\_\_

Date Purchased: \_\_\_\_\_

**Warranty**

Snooztime™ warrants to the original purchaser that our pillows will be free from defects in materials and workmanship for a period of 90 days from the date of the original sales receipt. If during the warranty period our pillows are found to have defects in materials or workmanship they will be replaced without charge. Except as set forth above, Snooztime makes no other warranties, either express or implied, including the implied warranties of merchantability or fitness for a particular purpose. In no event will Snooztime, its employees or officers, or employees and officers of the parent corporation be liable for incidental or consequential damages of any kind, whether such damages are claimed on account of breach or warranty, breach of contract, or strict product liability, including without limitations, damage to property or other economic losses. This limited warranty gives you specific legal rights and you may also have other rights, which vary from state to state.



Visit us on the web @ [www.snootime.com](http://www.snootime.com)

(800) 336-0088 Toll Free



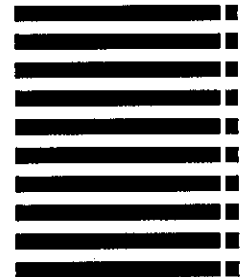
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UNITED STATES

**BUSINESS REPLY MAIL**

FIRST-CLASS MAIL PERMIT NO. 169 CANTON TX

POSTAGE WILL BE PAID BY ADDRESSEE

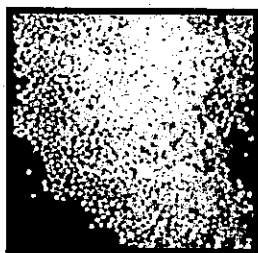
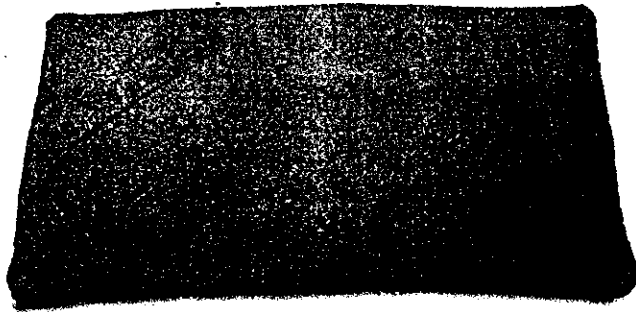
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TEXAS RHODE ISLAND FORWARDING  
231 VZCR 4104  
CANTON TX 75103-9987



# SNOOZTIME™ DREAMER™

## THE DREAMER™

is a luxurious full-size bed pillow with the incredible comfort, support and easy care of our Snooztime™ personal and travel pillows. The fill of the Dreamer™ is made exclusively of ultra slippery "microbeads", providing uniform support to your head and neck throughout the night.



Polystyrene microbead filling

Unlike expensive "memory foam", our microbead fill moves when you move, continuously changing to meet your support needs. There are no zippers or hardware of any kind and the durable stretch cover won't bunch up or fold over, so no more "pillow marks" or "bed face" in the morning! Made of durable Cotton, Polyester and Microbeads, the Dreamer™ is naturally hypoallergenic and resists the growth of mold, mildew and bacteria. And the Dreamer™ is completely washable\*.

How many pillows have you owned that you could easily and safely wash?  
Check out these great features:

- Completely washable\*
- Incredible comfort
- Uniform support
- 27" x 15" x 4"
- Hypoallergenic
- Durable
- Easy care
- Just 24.69 ounces

\*see product care tag

**SNOOZTIME™ DREAMER™**  
the "Ultimate Good Night's Rest"

**SNOOZTIME**  
Just a Better Pillow

(800) 336-0088 [www.snooztime.com](http://www.snooztime.com)